

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JORGE GALEAS MENCHU EL, JR.,        )  
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    )  
Petitioner,                            )  
    )  
    )  
v.                                      ) 1:22-cv-158  
    )  
    )  
STATE OF NORTH CAROLINA,            )  
    )  
    )  
    )  
Respondent.                           )

**ORDER**

This matter is before this court for review of the Order and Recommendation filed on March 9, 2022, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 20.) In the Recommendation, the Magistrate Judge recommends that this action be construed as a habeas petition under 28 U.S.C. § 2254 and dismissed sua sponte without prejudice to Petitioner filing a new petition which corrects the defects of the current Petition. The Recommendation was served on the Petitioner on March 9, 2022. (Doc. 21.) Petitioner filed Objections to the Recommendation. (Doc. 23.)

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations

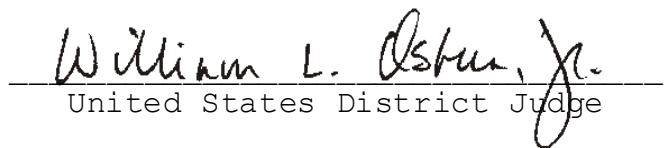
made by the [M]agistrate [J]udge . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." *Id.*

This court has appropriately reviewed the Recommendation as well as Petitioner's Objections and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

**IT IS THEREFORE ORDERED** that the Magistrate Judge's Recommendation, (Doc. 20), is **ADOPTED**. **IT IS FURTHER ORDERED** that this action is construed as a habeas petition under 28 U.S.C. § 2254 and **DISMISSED** sua sponte without prejudice to Petitioner filing a new petition which corrects the defects of the current Petition.

A Judgment dismissing this case will be filed contemporaneously with this Order.

This the 22nd day of March, 2023.

  
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United States District Judge